House Committee on Foreign Affairs
Subcommittee on the Western Hemisphere

Hearing on the Current State of Brazil-U.S. Relations

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Testimony by
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Mr. Chairman Engel, Ranking Member Burton and members of the Subcommittee, thank you for the opportunity to contribute to this important hearing about the status of Brazil-U.S. relations. My name is Mark Smith, and I am the Managing Director of Western Hemisphere Affairs of the U.S. Chamber of Commerce and Executive Vice President of the U.S. Section of the Brazil-U.S. Business Council. In my capacity at the Brazil Council, I represent 75 of the largest U.S. direct investors in Brazil. These companies are nine of Brazil's 20 largest exporters and employ over 218,000 workers directly. Our member companies are active corporate citizens in both countries and play a leading role in the over $45 billion in bilateral trade that flows between us.

The Council has been working over the last several years to highlight the need to undergird the impressive level of inter-Ministerial dialogue and quality of the relationship between our two Presidents with a strategy focused on elevating global, regional and bilateral cooperation in the military, strategic, diplomatic and commercial arenas. We have observed, with interest, the work that is being done between India and the U.S. on the civil nuclear issue and the strategic economic dialogue with China and wondered whether there might be opportunities that we are missing with Brazil. Since the collapse of the Free Trade Area of the Americas (FTAA) negotiations, much of which came down to failure to find common ground between two very distinct views of what a trade agreement should include, both countries have shifted the focus of their commercial policy agenda elsewhere. For example, Brazil has decided to make next year the year of Asia, having also failed to move forward in trade talks with the European Union. Additionally, Brazil inked a limited trade deal with India and has been courting Chinese trade and investment. Last year, China was Brazil's 2nd largest trading partner, eclipsing Argentina.

The U.S. has focused on cementing significant trade deals with its partners in the Hemisphere, adding DR-CAFTA and, hopefully Peru to Canada, Mexico and Chile, effectively bringing together a free trade zone throughout the entire pacific coast of the Americas. Increasingly, Brazil is looking at the evolution of a U.S. trading block with Latin American from without. We believe this situation is not in the long-term interest of either the U.S. or Brazil. As trade links built through long-term preferential access to the U.S. spur new export-oriented investment in the DR-CAFTA countries, Brazil will find itself losing market share in areas such as textiles, footwear, tropical fruits, etc. In addition, the strength of the Brazilian Real is already leading growth in U.S. exports into Brazil to eclipse import growth for the first time in many years.

Given the lack of progress in the WTO Doha Round, the stalling of the FTAA, and the lack of any real discussion of a bilateral trade deal, Brazil's participation in the Generalized System of Preferences (GSP) program has become a focus of bilateral discussion. The Chamber has been a strong proponent of GSP since its inception. During the GSP discussion at the end of the last year, the Chamber and the Council played a leading role in helping secure the extension of Brazil's benefits under the program. Our support was based on the positive economic impact of the program for the Council's member companies. Most of Brazilian exports under the GSP program are inputs that are used in a final product that is assembled in the U.S. and exported elsewhere in the world. So, in essence, lowering the price of Brazilian inputs makes U.S. exports more competitive. Indeed, this is the case in the automotive industry, which accounts for the majority of Brazilian imports under the program.

While we strongly supported the extension of GSP during last year's discussion, we do believe that, like any successful longtime program, there is a benefit to reviewing the program to ensure that it is having its desired effect. Given that Brazil is the 12th largest economy in the world, but also one of the most unequal in terms of development with areas as poor as Haiti, there is a legitimate need to discuss a way forward that continues to provide the same mutual benefits, but that also focuses support on the most impoverished areas of the country or sectors of the economy.

One of the key factors determining a country's eligibility for the GSP program is its record in the intellectual property rights area. Here, Brazil's performance has been decidedly mixed. On the anti-counterfeiting and piracy side, Brazil has taken an impressive step forward with a public-private committee that has brought government and industry together to implement 99 action items. While much remains to be done on this front, the Chamber has been working hand-in-hand with the Vice Minister of Justice and his team, as well the Brazilian customs and law enforcement authorities, and we've been consistently impressed with the seriousness with which they are taking the fight against contraband. It is also important to mention the tremendous partnership that the Chamber has developed with key business entities in the country, including the Brazilian National Confederation of Industries and its affiliated state-level organizations in São Paulo, Rio de Janeiro, Belo Horizonte and Pernambuco. The downgrading of Brazil on USTR's annual Special 301 Intellectual Property Rights Watch list was a direct result of a great deal of positive work on the national and bilateral front in the anti-piracy and counterfeiting area.

Unfortunately, the situation in the patent area cannot be described in such an upbeat manner. Brazil's recent decision to follow Thailand and issue the second compulsory license for an HIV-AIDS drug under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement has been a significant setback, particularly due to the manner in which the decision was made. We are particularly concerned with the low quality of the dialogue between the pharmaceutical industry and the government. While Brazil has decided not to pursue similar tactics in following price negotiations, it is important to note that Brazil's action has raised concern in the investor community. We believe that in examining the program moving forward, some serious thought needs to be put into how we can more effectively use the leverage of GSP to ensure protection for innovative U.S. industries, while ensuring that the benefits of the program for other industries are preserved.

In addition, we firmly believe that there is a need for a radical rethinking of the relationship between the industry and the government in the human health area.

Unfortunately, to date, the discussions have been solely focused on price, missing significant opportunities for mutually beneficial partnerships between government and the industry to meet the real challenge: ensuring access to vital medicines throughout the country. Although the Brazilian government has succeeded in lowering the cost of medicine and thus the drag on its own treasury from its world-renowned HIV-AIDS program, access to medicine in many key areas has remained relatively static. We firmly believe there is an opportunity for the industry to develop a multifaceted dialogue with the government focused on investment, technology transfer, regional export opportunities, expanding access, and lowering prices by harnessing economies of scale. In summary, there is a win-win-win within reach.

Despite the lack of bilateral or regional trade negotiations, the business community has adopted a very practical strategy of focusing on attainable goals that will move the needle in terms of bilateral trade and investment, particularly in the tax and foreign exchange areas. One of these goals has been the finalization of a Brazil-U.S. Tax Treaty. Indeed, Brazil is the largest economy with which we do not have a bilateral tax treaty. Given that the U.S. is the largest investor in Brazil and that Brazil is rapidly increasing its direct investment in this country, we believe that a tax treaty would be an important catalyst of new investment and trade. During President Lula's meeting with President Bush, progress was made toward this goal with the signing of a Tax Information Exchange Agreement (TIEA). There is still a great deal of work to be done on the technical level, but we hope that support for this important objective at the political level in both countries will continue to grow.

One of the other areas on which we have focused is speeding the movement of goods and people between both countries. Currently, the Council is working closely with the U.S. Department of Commerce and their colleagues at the Brazilian Ministry of Development to help the Brazilian customs authorities implement an electronic system for the clearance of express shipments. While this may seem like a minor matter, speeding the clearance of these packages through customs will allow Brazilian and American companies alike to implement just-in-time supply chains, which depend on the ability to quickly receive key parts, many of which are delivered via express delivery services.

In the energy area, there has been a lot of high-level discussion about biofuels, and both countries have signaled their intent to work together to develop markets for ethanol in the region and standards issues. Whether these initiatives will bear fruit is yet to be seen. One thing is for sure, though: there is much more that both countries can do to share technology - particularly in the cellulosic area - develop new markets abroad and help top off one another at peak demand periods. At the end of the day, we believe that anything that can be done to expand the biofuels pie around the world and in the United States will benefit players from both sides.

The discussion of biofuels has garnered all of the attention, but there are other interesting areas where the U.S. and Brazil are working together that are worth noting. U.S. companies are playing a key role in helping expand Brazilian oil production capacity. Last year, Brazil became a net petroleum exporter. Given events in Venezuela and the situation in the Middle East, working together to increase Brazil's ability to export petroleum is in both countries' interest. Finally, in the area of electrical energy, U.S. companies are beginning to contemplate new investments in hydro, thermal and bagasse-based projects. Brazil faces the challenge of reducing its dependence on Bolivian natural gas, and thus there is a lot of room for mutually beneficial partnership in this area.

In conclusion, I would like to congratulate the committee for holding this hearing on the bilateral relationship and for the opportunity to contribute our perspective to the debate. We firmly believe that despite the bumps in the road that constitute a part of any significant commercial relationship, the outlook for the Brazil-U.S. commercial relationship is quite positive. The question is: are we willing to further elevate the level of dialogue and help tease out a more significant and long lasting strategic relationship that builds off of the intense contacts at every level between the two private sectors and governments? We believe that the benefits of this kind of outreach will far outweigh the costs for both sides.